

**DRAFT****PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA****Telecommunications Division  
Market Structure Branch****RESOLUTION T-17015  
May 25, 2006****R E S O L U T I O N**

**Resolution T-17015. AT&T California (U-1001-C). Request for Approval of Two CMRS Interconnection Agreements. One between AT&T California and Carreau Enterprises, Inc. dba Yellow Pager Communications Systems, and one between AT&T California and Banner Communications & Electronics. Both agreements are pursuant to Section 252 of the Telecommunications Act of 1996.**

**By Advice Letters No. 28243 (Yellow Pager) and No. 28234 (Banner)  
Filed on March 27, 2006 and March 24, 2006 respectively.**

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**Summary**

This Resolution approves two CMRS Interconnection Agreements, submitted under provisions of Resolution ALJ-181 and GO 96-A. One agreement involves AT&T California (AT&T) and Carreau Enterprises, Inc. dba Yellow Pager Communications Systems, (Yellow Pager). The second agreement involves AT&T and Banner Communications & Electronics (Banner). These agreements are effective on the date of Commission approval and will remain in effect until April 30, 2008.

**Background**

The United States Congress passed and the President signed into law the Telecommunications Act of 1996 (Pub. L. No.104-104, 110 Stat. 56 (1996)) (1996 Act). The new law declared that each incumbent local exchange telecommunications carrier has a duty to provide interconnection with the local network for any requesting telecommunications carrier and set forth the general nature and quality of the interconnection that the incumbent local exchange carrier (ILEC) must agree to provide.<sup>1</sup> The 1996 Act established an obligation for the ILECs to enter into good faith negotiations with each competing carrier to set the terms of interconnection. Any interconnection agreement adopted by negotiation must be submitted to the appropriate state commission for approval.

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<sup>1</sup> An incumbent local exchange carrier is defined in Section §251(h) of the 1996 Act.

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Section 252 of the 1996 Act sets forth our responsibility to review and approve interconnection agreements. On July 17, 1996, we adopted Resolution ALJ-167 that provides interim rules for the implementation of §252. On September 26, 1996, we adopted Resolution ALJ-168 that modified those interim rules. On June 25, 1997, we approved Resolution ALJ-174, which modified Resolution ALJ-168, but did not change the rules for reviewing agreements achieved through voluntary negotiation. On November 18, 1999, we adopted ALJ-178, which added pick-and-choose provisions to the rules established in ALJ-174, but again did not change the rules for reviewing agreements achieved through voluntary negotiation. On October 5, 2000, we approved Resolution ALJ-181 to require any potential Competitive Local Carrier that intends to make use of our rules to have a Certificate of Public Convenience and Necessity (CPCN), or at least have filed an application for CPCN, prior to applying for approval of an agreement. This new rule does not apply to CMRS carriers, which are not price-regulated by the State of California.

On August 8, 1996, the FCC issued its First Report and Order on Interconnection, CC Docket No. 96-98 (the Order). The Order included several regulations regarding the rights and obligations of Commercial Mobile Radio Service (CMRS) providers and ILECs in providing local interconnection. On October 15, 1996, the First Report and Order was stayed by the United States Court of Appeals for the 8<sup>th</sup> Circuit. While the stay was lifted for some sections, the 8<sup>th</sup> Circuit overturned several sections of the Order pertaining to pricing rules in its opinion issued on July 17, 1997. The United States Supreme Court later affirmed the FCC's jurisdiction to issue pricing rules in a reversal of the opinion from the 8<sup>th</sup> Circuit.<sup>2</sup>

AT&T California filed Advice Letter No. 28234 on March 24, 2006 and Advice Letter 28243 on March 27, 2006, requesting Commission approval of negotiated CMRS interconnection agreements between AT&T and Banner and between AT&T and Yellow Pager under Section 252.

In Resolution ALJ-181 we noted that the 1996 Act requires the Commission to act to approve or reject agreements. We established an approach, which uses the advice letter process as the preferred mechanism for consideration of negotiated agreements. Under Rule 4.3.3, if we fail to approve or reject the agreements within 90 days after the advice letter is filed, then the agreements will be deemed approved.

The interconnection agreements set the terms and charges for interconnection between AT&T and Yellow Pager and AT&T and Banner. The agreements provide for the following:

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<sup>2</sup> AT&T Corporation v. Iowa Utilities Board

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- Itemizes the charges for CMRS Interconnection and services included in the Agreement;
- Interconnection for exchange of one way calls from AT&T's customers to carrier's paging terminal in a technically and economically efficient manner;
- Exchange of local traffic between the parties;
- Non discriminatory access to numbering resources;
- Permanent number portability if required by regulatory authority.

### **Notice/Protests**

AT&T states that it has mailed copies of the Advice Letters and Interconnection Agreements to all parties on the Service List of ALJ 181, R.93-04-003/I.93-04-002/R.95-04-043/I.95-04-044. Notice of the Advice Letters was published in the Commission Daily Calendar. Pursuant to Rule 4.3.2 of Resolution ALJ-181, protests shall be limited to the standards for rejection provided in Rule 4.1.4. No protest to these Advice Letters has been received.

### **Discussion**

In November 1993, this Commission adopted a report entitled "Enhancing California's Competitive Strength: A Strategy for Telecommunications Infrastructure" (Infrastructure Report). In that report, the Commission stated its intention to open all telecommunications markets to competition by January 1, 1997. Subsequently, the California Legislature adopted Assembly Bill 3606 (Ch. 1260, Stats. 1994), similarly expressing legislative intent to open telecommunications markets to competition by January 1, 1997. In the Infrastructure Report, the Commission states that "In order to foster a fully competitive local telephone market, the Commission must work with federal officials to provide consumers equal access to alternative providers of service." The 1996 Act provides us with a framework for undertaking such state-federal cooperation.

Sections 252(a)(1) and 252(e)(1) of the Act distinguish interconnection agreements arrived at through voluntary negotiation and those arrived at through compulsory arbitration. Section 252(a)(1) states that:

"An incumbent local exchange carrier may negotiate and enter into a binding agreement with the requesting telecommunications carrier or carriers without regard to the standards set forth in subsections (b) and (c) of section 251."

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Section 252(e)(2) limits the state commission's grounds for rejection of voluntary agreements. Section 51.3 of the First Report and Order also concludes that the state commission can approve an interconnection agreement adopted by negotiation even if the terms of the agreement do not comply with the requirements of Part 51-- Interconnection.

Based on Section 252 of the 1996 Act, we have instituted Rule 4.3 in Resolution ALJ-181 for approval of agreements reached by negotiation. Rule 4.3.1 provides rules for the content of requests for approval. Consistent with Rule 4.3.1, each of the requests has met the following conditions:

- 1 . AT&T has filed Advice Letters as provided in General Order 96-A and stated that the Interconnection Agreements are agreements being filed for approval under Section 252 of the Act.
- 2 . The requests contain copies of the Interconnection Agreements which, by its content, demonstrates that they meet the standards in Rule 2.18.
- 3 . The Interconnection Agreements itemize the charges for interconnection and each service or network element included in the Interconnection Agreements.

Rule 4.3.3 of Resolution ALJ-181 states that the Commission shall reject or approve an agreement based on the standards in Rule 4.1.4. Rule 4.1.4 states that the Commission shall reject an interconnection agreement (or portion thereof) if it finds that:

- A. the agreement discriminates against a telecommunications carrier not a party to the agreement; or
- B. the implementation of such agreement is not consistent with the public interest, convenience, and necessity; or
- C. the agreement violates other requirements of the Commission, including, but not limited to, quality of service standards adopted by the Commission.

We make no determination as to whether the rates in the agreements meet the pricing standards of Section 252(d) of the 1996 Act. Our consideration of the agreements is limited to the three issues in Rule 4.1.4 of Resolution ALJ-181.

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The agreements are consistent with the goal of avoiding discrimination against other telecommunications carriers. We see nothing in the terms of the proposed agreements that would serve to restrict the access of a third-party carrier to the resources and services of AT&T California.

Section 252(i) of the 1996 Act ensures that the provisions of an agreement will be made available to all other similarly situated competitors. Specifically, the section states:

“A local exchange carrier shall make available any interconnection, service, or network element provided under an agreement approved under this section to which it is a party to any other requesting telecommunications carrier upon the same terms and conditions as those provided in the agreement.”

We previously concluded that competition in local exchange and exchange access markets is desirable. We find no provisions in the agreements which undermine this goal or are inconsistent with any other identified public interests. Hence, we conclude that the agreements are consistent with the public interest.

Furthermore, we recognize that no party protested the advice letters alleging that they are discriminatory, inconsistent with the public interest, convenience, and necessity or in violation of Commission requirements.

Several who commented on previous interconnection agreements sought assurance that the Commission's treatment of those interconnection agreements would not impair their rights and opportunities in other proceedings<sup>3</sup>. We wish to reiterate such assurances as clearly as possible. This Resolution stands solely for the proposition that AT&T and Yellow Pager and AT&T and Banner may proceed to interconnect under the terms set forward in their agreements. We do not adopt any findings in this Resolution that should be carried forth to influence the determination of issues to be resolved elsewhere.

If the parties to these agreements enter into any subsequent agreements affecting interconnection, those agreements must also be submitted to the Commission for approval. In addition, the approval of these agreements is not intended to affect otherwise applicable deadlines. These agreements and their approval have no binding effect on any other carrier. Nor do we intend to use this Resolution as a vehicle for setting future Commission policy. As a result of being approved, these agreements do not become a standard against which any or all other agreements will be measured.

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<sup>3</sup>A.96-07-035 and A.96-07-045.

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With these clarifications in mind, we will approve the proposed agreements. In order to facilitate rapid introduction of competitive services, we will make this order effective immediately.

This is an uncontested matter in which the resolution grants the relief requested. Accordingly, pursuant to PU Code Section 311(g)(2), the otherwise applicable 30-day period for public review and comment is being waived.

## Findings

1. AT&T's requests for approval of one CMRS Interconnection Agreement between AT&T and Carreau Enterprises, Inc. dba Yellow Pager Communications Systems, pursuant to the Federal Telecommunications Act of 1996 meet the content requirements of Rule 4.3.1 of Resolution ALJ-181.
2. AT&T's requests for approval of one CMRS Interconnection Agreement between AT&T and Banner Communications & Electronics pursuant to the Federal Telecommunications Act of 1996 meet the content requirements of Rule 4.3.1 of Resolution ALJ-181.
3. The Interconnection Agreement that was requested in AT&T's Advice Letter No. 28243 is consistent with the goal of avoiding discrimination against other telecommunications carriers.
4. The Interconnection Agreement that was requested in AT&T's Advice Letter No. 28234 is consistent with the goal of avoiding discrimination against other telecommunications carriers.
5. We conclude that these agreements are consistent with the public interest.
6. We conclude that these agreements do not present terms that violate quality of service standards adopted by the Commission, as per Rule 4.1.4 of ALJ-181.

## **THEREFORE, IT IS ORDERED** that:

1. Pursuant to the Federal Telecommunications Act of 1996, we approve the CMRS Interconnection Agreement between AT&T California and Carreau Enterprises, Inc. dba Yellow Pager Communications Systems requested by Advice Letter No. 28243.

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2. Pursuant to the Federal Telecommunications Act of 1996, we approve the CMRS Interconnection Agreement between AT&T California and Banner Communications & Electronics requested by Advice Letter No. 28234.
3. This Resolution is limited to approval of the above-mentioned interconnection agreements and does not bind other parties or serve to alter Commission policy in any of the areas discussed in the agreements or elsewhere.
4. AT&T California Advice Letter No. 28243, that requests approval of one CMRS Interconnection Agreement between AT&T California and Carreau Enterprises, Inc. dba Yellow Pager Communications Systems shall be marked to show that it was approved by Resolution T-17015.
5. AT&T California Advice Letter No. 28234, that requests approval of one CMRS Interconnection Agreement between AT&T California and Banner Communications & Electronics shall be marked to show that it was approved by Resolution T-17015.

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This Resolution is effective today.

I hereby certify that the California Public Utilities Commission adopted this Resolution at its regular meeting on May 25, 2006. The following Commissioners approved it:

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STEVE LARSON  
Executive Director